

In re the matter of

THOMAS P. FRACHALLA,

Debtor

CHAPTER 7

NO. 09 B 44910

JUDGE BRUCE W. BLACK
(Joliet)

NOTICE OF MOTION

TO:

Thomas P. Frachalla
22731 Park View Lane
Frankfort, IL 60423
via mail

Frank L. Vosholler, III
via electronic notification

Debra K. Ebner
via electronic notification

PLEASE TAKE NOTICE that on January 15, 2010 at 9:15.A.M. or as soon thereafter as Counsel may be heard, we shall appear before the Honorable Bruce W. Black, Bankruptcy Judge, at 57 North Ottawa Street, Joliet, Illinois in Courtroom 201 and then and there present the attached Motion to Modify the Automatic Stay, a copy of which is hereby served upon you.

PROOF OF SERVICE

I, the undersigned attorney, certify that I served a copy of this Notice with Motion to Modify the Automatic Stay attached, upon the Debtor(s), as listed above, by mailing same in a properly addressed envelope, postage prepaid, from 120 South LaSalle Street, Chicago, Illinois 60603. And that the Debtor's attorney, as listed above, as well as the case Trustee, as listed above, were both served via electronic notification that occurs automatically upon the filing of said Motion to Modify the Automatic Stay. That the motion was filed, and the placement of any mailed copies being placed in the mail occurred before the hour of 5:00 P.M. on the 7th day of January, 2010.

BY: /s/ Christopher H. Purcell
CHRISTOPHER H. PURCELL
SHERMAN & SHERMAN

CHRISTOPHER H. PURCELL
SHERMAN & SHERMAN
120 South La Salle Street
Chicago, Illinois 60603
Atty. for First Midwest Bank, N.A.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re the matter of

THOMAS F. FRACHALLA.

Debtor

CHAPTER 7

NO. 09 B 44910

JUDGE BRUCE W. BLACK

MOTION TO MODIFY AUTOMATIC STAY

Now comes FIRST MIDWEST BANK, N.A., a creditor herein, by SHERMAN & SHERMAN, its attorneys, and moves this Honorable Court for entry of an Order modifying the restraining provisions of §362 of the Bankruptcy Code, and in support thereof respectfully represents as follows:

1. That on November 25, 2009 the Debtor herein filed a petition for relief under Chapter 7 of the Bankruptcy Code.
2. That FIRST MIDWEST BANK, N.A. is a creditor of the Debtor with respect to a debt secured by real property commonly know as 11306 Front Street, Mokena, Illinois and Lisa Flynn is the grantor of the mortgage and has also signed the assignment of rent with a current balance owed as of the filing of petition for relief is \$113,182.77
3. That the Debtor has not offered, and FIRST MIDWEST BANK, N.A. is not receiving, adequate protection for its secured interest or depreciating value.
4. Said property is not necessary to an effective reorganization by the Debtor.
5. That FIRST MIDWEST BANK, N.A. will suffer irreparable injury, harm and damage should it be delayed in taking possession of the real property aforesaid and foreclosing its security interest therein.

6. That your Movant requests that Bankruptcy Rule 4001(a)(3) not apply to any Order granting this Motion.

7. The account is past due for payment, which came due in October 2009, and for payments, which came due each month thereafter, and the note matures on January 27, 2010. It does not appear that the property is property of the estate, it is not listed on the schedules nor the statement of intentions.

WHEREFORE, FIRST MIDWEST BANK, N.A. prays that this Honorable Court enter an Order modifying the restraining provisions of §362 of the Bankruptcy Code to permit the said FIRST MIDWEST BANK, N.A. to take all action necessary to foreclose on its note and mortgage on property commonly known as 11306 Front St., Mokena, Illinois and for such other and further relief as this Court may deem just and equitable.

FIRST MIDWEST BANK, N.A.

BY: /s/ Christopher H. Purcell
CHRISTOPHER H. PURCELL
SHERMAN & SHERMAN

CHRISTOPHER H. PURCELL
SHERMAN & SHERMAN
120 South La Salle Street
Chicago, Illinois 60603
Phone: (312) 372-1487
Atty. for First Midwest Bank, N.A.